



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

MARK CLODFELTER
555 SPARKMAN DRIVE
SUITE 1602D
HUNTSVILLE AL 35816

COPY MAILED

OCT 08 2004

In re Application of : **OFFICE OF PETITIONS**
Philip Moore. :
Application No. 10/773,742 : ON PETITION
Deposited: February 6, 2004 :
Attorney Docket No.: MOOREPAT1 :

This is a decision on the petition filed September 3, 2004, requesting in effect, that a Notice of Incomplete Nonprovisional Application ("Notice") mailed August 10, 2004, be withdrawn and a filing date granted.

Application papers in the above-identified application were deposited on February 6, 2004. However, on August 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had **not** been accorded a filing date because the application was deposited without drawings.¹

In response, 9 sheets of drawings, including figures 1-8 and the present petition were filed on September 3, 2004. The petition contends that the application as filed included 9 sheets of drawings and were described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of "drawing" on February 6, 2004.

¹See 35 U.S.C. 111(a) (4)

Applicant's postcard receipt is prima facie² evidence that drawings were received on February 6, 2004, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 9 sheets of drawings, including figures 1-8, were received on February 6, 2004, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. No petition fee is required. Accordingly, a treasury check in the amount of \$130.00 is being refunded.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 6, 2004, using the 9 sheets of drawings supplied on September 3, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.



Charlema R. Grant
Petition Attorney
Office of Petitions

²A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the office of all items listed thereon. See MPEP 503.